

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

MOTIO, INC.

§

V.

§

CASE NO. 4:12-CV-647

Judge Mazzant

BSP SOFTWARE LLC,

§

BRIGHTSTAR PARTNERS, INC.,

§

and AVNET, INC.

§

VERDICT OF THE JURY

We, the Jury, find as follows:

QUESTION ONE

Has Motio proven, by a preponderance of the evidence: (i) that an end user performed every step of the method in claim 1 in the United States; (ii) that IVC was a material component in infringing the method; (iii) that IVC has no substantial, noninfringing use; and (iv) that Avnet was aware of the '678 patent and knew that the IVC product is covered by a claim of the '678 patent?

Please answer "Yes," or "No."

Yes Yes

No _____

If you answered "Yes" to Question One, please proceed to Question Two, if you answered "No," then proceed to Question Four.

QUESTION TWO

Has Motio proven, by a preponderance of the evidence: (i) that an end user performed every step of the method in claim 2 in the United States; (ii) that IVC was a material component in infringing the method; (iii) that IVC has no substantial, noninfringing use; and (iv) that Avnet was aware of the '678 patent and knew that the IVC product is covered by a claim of the '678 patent?

Please answer "Yes," or "No."

Yes Yes

No _____

Please proceed to Question Three.

QUESTION THREE

Has Motio proven, by a preponderance of the evidence: (i) that an end user performed every step of the method in claim 3 in the United States; (ii) that IVC was a material component in infringing the method; (iii) that IVC has no substantial, noninfringing use; and (iv) that Avnet was aware of the '678 patent and knew that the IVC product is covered by a claim of the '678 patent?

Please answer "Yes," or "No."

Yes Yes

No _____

Please proceed to Question Four.

QUESTION FOUR

Has Motio proven, by a preponderance of the evidence,: (i) that an end user directly infringed claim 1 of the '678 patent by performing every step of claim 1 using the IVC product in the United States; (ii) that Avnet took action during the time the '678 patent was in force intending to cause infringement by the end user; and (iii) that Avnet was aware of the '678 patent and knew that its actions, if taken, would constitute infringement of a valid patent?

Please answer "Yes," or "No."

Yes Yes

No _____

If you answered "Yes" to Question Four, please proceed to Question Five, if you answered "No," then proceed to Question Seven.

QUESTION FIVE

Has Motio proven, by a preponderance of the evidence,: (i) that an end user directly infringed claim 2 of the '678 patent by performing every step of claim 2 using the IVC product in the United States; (ii) that Avnet took action during the time the '678 patent was in force intending to cause infringement by the end user; and (iii) that Avnet was aware of the '678 patent and knew that its actions, if taken, would constitute infringement of a valid patent?

Please answer "Yes," or "No."

Yes Yes

No _____

Please proceed to Question Six.

QUESTION SIX

Has Motio proven, by a preponderance of the evidence,: (i) that an end user directly infringed claim 3 of the '678 patent by performing every step of claim 3 using the IVC product in the United States; (ii) that Avnet took action during the time the '678 patent was in force intending to cause infringement by the end user; and (iii) that Avnet was aware of the '678 patent and knew that its actions, if taken, would constitute infringement of a valid patent?

Please answer "Yes," or "No."

Yes Yes

No _____

Please proceed to Question Seven.

QUESTION SEVEN

Has Avnet proven, by clear and convincing evidence, that the specification of the '678 patent does not contain an adequate written description of claim 1 of the '678 patent?

Please answer "Yes," or "No."

Yes _____

No No _____

Please proceed to Question Eight.

QUESTION EIGHT

Has Avnet proven, by clear and convincing evidence, that claim 1 of the '678 patent was "anticipated," or, in other words, not new?

Please answer "Yes," or "No."

Yes _____

No No _____

If you answered "Yes" to Question Eight, please proceed to Question Nine, if you answered "No," then proceed to Question Eleven.

QUESTION NINE

Has Avnet proven, by clear and convincing evidence, that claim 2 of the '678 patent was "anticipated," or, in other words, not new?

Please answer "Yes," or "No."

Yes _____

No _____

Please proceed to Question Ten.

QUESTION TEN

Has Avnet proven, by clear and convincing evidence, that claim 3 of the '678 patent was "anticipated," or, in other words, not new?

Please answer "Yes," or "No."

Yes _____

No _____

Proceed to Question Eleven.

QUESTION ELEVEN

Has Avnet proven, by clear and convincing evidence, that claim 1 of the '678 patent would have been obvious to a person of ordinary skill in the field?

Please answer "Yes," or "No."

Yes _____

No No _____

If you answered "Yes" to Question Eleven, please proceed to Question Twelve, if you answered "No," then proceed to Question Fourteen.

QUESTION TWELVE

Has Avnet proven, by clear and convincing evidence, that claim 2 of the '678 patent would have been obvious to a person of ordinary skill in the field?

Please answer "Yes," or "No."

Yes _____

No _____

Please proceed to Question Thirteen.

QUESTION THIRTEEN

Has Avnet proven, by clear and convincing evidence, that claim 3 of the '678 patent would have been obvious to a person of ordinary skill in the field?

Please answer "Yes," or "No."

Yes _____

No _____

Please proceed to Question Fourteen

QUESTION FOURTEEN

What lost profits, if any, did Motio prove, by a preponderance of the evidence, it suffered as a result of sales that it would with reasonable probability have made but for Avnet's infringement?

Please answer in dollars and cents.

Answer: \$ 1,095,807.30

Please proceed to Question Fifteen.

QUESTION FIFTEEN

For those infringing sales for which Motio has not proven its entitlement to lost profits, what has it proven, by a preponderance of the evidence, it is entitled to as a reasonable royalty?

Please answer in dollars and cents.

Answer: \$ 129,148.57

Date: 1/28/16

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